

ASSEMBLY BILL

No. 2525

Introduced by Assembly Members Bonta and Levine

February 21, 2014

An act to amend Sections 12311 and 25100 of, to amend the heading of Title 2.6 (commencing with Section 17701.01) of, to add the heading of Division 1 (commencing with Section 17701.01) to, and to add Division 2 (commencing with Section 17801.01) to, Title 2.6 of, the Corporations Code, relating to worker cooperative companies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2525, as introduced, Bonta. Limited Liability Worker Cooperative Act.

Existing law, the California Revised Uniform Limited Liability Company Act, governs the formation and operation of limited liability companies. Existing law authorizes a limited liability company to engage in any lawful business activity, except as specified, but prohibits construing the act to permit a limited liability company to render professional services, as defined. Existing law provides for the filing of specified records and further provides that an individual who signs such a record affirms under penalty of perjury that the information in the record is accurate.

Existing law, the Consumer Cooperative Corporation Law, provides for the organization and operation of primarily consumer cooperatives, and is also applicable to other cooperatives. Existing law provides for, among other things, information to be included in a cooperative corporation's by laws, the definition of terms for purposes of that law, and requirements as to voting rights of members and time periods for sending notice of meetings at which members are entitled to vote.

Existing law requires a cooperative corporation to include in its name the word “cooperative.”

This bill would establish the Limited Liability Worker Cooperative Act, which would provide for the organization and operation of worker cooperative companies. The bill would authorize a worker cooperative company to be formed for any lawful purpose provided that it is organized and conducts its business primarily for the mutual benefit of its members as patrons of the worker cooperative company. The bill would authorize a worker cooperative company to engage in any lawful business activity, except as specified, but would prohibit construing the act to permit a worker cooperative company to render professional services, as defined. The bill would authorize certain classes of membership in the worker cooperative company, including a worker-member class. The bill would provide that members of the worker cooperative company have equal votes, but would authorize the worker-member class to have ultimate decisionmaking authority. The bill would authorize members of a class to vote separately on any matter. The bill would authorize a worker cooperative company to include in its name the word “cooperative.” The bill would define certain terms for its purposes. The bill would specify that the provisions of the California Revised Uniform Limited Liability Act apply to worker cooperative companies, except as provided. Because this bill would expand the scope of the crime of perjury, the bill would impose a state-mandated local program.

Existing law, the Corporate Securities Law of 1968, provides for the regulation of the issuance of corporate securities, requires the qualification of an offer or sale of securities, and provides for exemptions from qualification.

This bill would exempt the issuance of a membership by a worker cooperative company, as specified, from certain securities requirements.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12311 of the Corporations Code is
2 amended to read:

3 12311. (a) The names of all corporations formed under this
4 part shall include “cooperative.” No corporation shall be formed
5 under this part unless there is affixed or prefixed to its name some
6 word or abbreviation which will indicate that it is a corporation,
7 as distinguished from a natural person, a firm, or an unincorporated
8 association.

9 (b) No person shall adopt or use the word “cooperative” or any
10 abbreviation or derivation thereof, or any word similar thereto, as
11 part of the name or designation under which it does business in
12 this state, unless incorporated as provided in this part *or organized*
13 *as a worker cooperative company under Division 2 (commencing*
14 *with Section 17801.01) of Title 2.6, or unless incorporated as a*
15 *nonprofit cooperative association under Chapter 1 (commencing*
16 *with Section 54001) of Division 20 of the Food and Agricultural*
17 *Code, as a stock cooperative, as defined in Section 11003.2 of the*
18 *Business and Professions Code, as a limited-equity housing*
19 *cooperative, as defined in Section 817 of the Civil Code, as a credit*
20 *union or organization owned for the mutual benefit of credit unions,*
21 *or under some other law of this state enabling it to do so. However,*
22 *the foregoing prohibition shall be inapplicable to any credit union*
23 *or organization owned for the mutual benefit of credit unions, any*
24 *housing cooperative, the financing of which is insured, guaranteed,*
25 *or provided, in whole or in part, by a public or statutorily chartered*
26 *entity pursuant to a program created for housing cooperatives, a*
27 *nonprofit corporation, a majority of whose membership is*
28 *composed of cooperative corporations, or an academic institution*
29 *that serves cooperative corporations.*

30 (c) A domestic or foreign corporation or association which did
31 business in this state under a name or designation including the
32 word “cooperative” prior to September 19, 1939, and which
33 conducts business on a cooperative basis substantially as set forth
34 in this part, may continue to do business under that name or
35 designation.

36 (d) Any person, firm, individual, partnership, trust, domestic
37 corporation, foreign corporation, or association which did business
38 in this state under a name or designation including the word

1 “cooperative” prior to September 19, 1939, but which does not
2 conduct business on a cooperative basis as contemplated by Section
3 12201 of this part, may continue to do business under that name
4 or designation if the words “not organized under the law relating
5 to cooperative corporations” are always placed immediately after
6 the name or designation wherever it is used.

7 (e) Any foreign corporation, organized under and complying
8 with the cooperative law of the state or other jurisdiction of its
9 creation, may use the term “cooperative” in this state if it has
10 complied with the laws of this state applicable to foreign
11 corporations, insofar as those laws are applicable to it, and if it is
12 doing business on a cooperative basis as contemplated by Section
13 12201.

14 SEC. 2. The heading of Title 2.6 (commencing with Section
15 17701.01) of the Corporations Code is amended to read:

16

17 TITLE 2.6. ~~CALIFORNIA REVISED UNIFORM LIMITED~~
18 ~~LIABILITY COMPANY ACT~~ LIMITED LIABILITY COMPANIES

19

20 SEC. 3. The heading of Division 1 (commencing with Section
21 17701.01) is added to Title 2.6 of the Corporations Code, to read:

22

23 DIVISION 1. CALIFORNIA REVISED UNIFORM LIMITED
24 LIABILITY COMPANY ACT

25

26 SEC. 4. Division 2 (commencing with Section 17801.01) is
27 added to Title 2.6 of the Corporations Code, to read:

28

29 DIVISION 2. LIMITED LIABILITY WORKER
30 COOPERATIVE ACT

31

32 Article 1. General Provisions

33

34 17801.01. (a) The Legislature finds and declares that the
35 formation of employee-owned businesses and the participation of
36 employees in the management of businesses in this state will
37 promote the stabilization of local economies, anchor business
38 activity, and increase productivity. The Legislature further finds
39 that the encouragement of employee-owned businesses will

1 increase and broaden community investments in this state and
2 encourage new capital formation through employee ownership.

3 (b) This division may be cited as the Limited Liability Worker
4 Cooperative Act.

5 (c) (1) A worker cooperative company may be formed under
6 this division for any lawful purpose provided that it is organized
7 and conducts its business primarily for the mutual benefit of its
8 members as patrons of the worker cooperative company.

9 (2) The earnings, savings, or benefits of the company shall be
10 used for the general welfare of the members or shall be
11 proportionately and equitably distributed to some or all of its
12 members or its patrons, based upon their patronage of the company,
13 in the form of cash, property, evidences of indebtedness, capital
14 credits, memberships, or services.

15 (3) Worker cooperative companies are democratically controlled
16 and are not organized to make a profit for themselves, as such, or
17 for their members, as such, but primarily for their members as
18 patrons.

19 17801.02. (a) Except as provided in this section, the definitions
20 of Section 17701.02 shall apply to this division.

21 (b) For purposes of this division, the following definitions apply:

22 (1) "Class" refers to those memberships that: (A) are identified
23 in the articles of organization or operating agreement as being a
24 different type of membership; or (B) have the same rights with
25 respect to voting, dissolution, redemption, distributions, and
26 transfer. For the purpose of this subdivision, rights shall be
27 considered the same if they are determined by a formula applied
28 uniformly.

29 (2) "Distribution" shall mean both dividend distribution and
30 patronage distribution.

31 (3) "Member" has the same meaning as in subdivision (p) of
32 Section 17701.02. A member may also be a patron of the worker
33 cooperative company.

34 (4) "Patron" means any of the following:

35 (A) A member who provides personal services to, purchases
36 goods from, or uses the services of the worker cooperative
37 company.

38 (B) A person who uses the worker cooperative company to
39 market, process, or handle their products or services.

1 (5) “Patronage” means the amount of value created by a member
2 measured as provided in the articles of organization or operating
3 agreement of the worker cooperative company. Value may include
4 personal services contributed, number of hours worked, job
5 creation, or any other measure as provided in the articles of
6 organization or operating agreement.

7 (6) “Patronage distribution” means any transfer of cash or
8 property made to a patron of the worker cooperative company, the
9 amount of which is computed with reference to the patron’s
10 patronage of the worker cooperative company.

11 (7) “Worker” means a natural person who provides labor to the
12 worker cooperative company in exchange for compensation.

13 (8) “Worker cooperative company,” means an entity formed
14 under this division or an entity that becomes subject to this division.
15 A worker cooperative company is majority-controlled by its
16 worker-members.

17 (9) “Worker-member” means a worker who is a member of the
18 worker cooperative company and whose patronage includes
19 providing labor to the worker cooperative company.

20 17801.03. (a) A worker cooperative company is an entity
21 distinct from its members.

22 (b) A worker cooperative company may have any lawful
23 purpose, regardless of whether for profit, except the banking
24 business, the business of issuing policies of insurance and assuming
25 insurance risks, or the trust company business. A worker
26 cooperative company may render services that may be lawfully
27 rendered only pursuant to a license, certificate, or registration
28 authorized by the Business and Professions Code, the Chiropractic
29 Act, the Osteopathic Act, or the Yacht and Ship Brokers Act, if
30 the applicable provisions of the Business and Professions Code,
31 the Chiropractic Act, the Osteopathic Act, or the Yacht and Ship
32 Brokers Act authorize a worker cooperative company to hold that
33 license, certificate, or registration.

34 (c) A worker cooperative company has perpetual duration.

35 (d) Nothing in this division shall be construed to permit a worker
36 cooperative company to render professional services, as defined
37 in subdivision (a) of Section 13401 and in Section 13401.3, in this
38 state.

39 17801.04. (a) Each member of the worker cooperative
40 company shall have an equal vote in their membership class, but

1 the worker-member class shall have ultimate decisionmaking
2 authority.

3 (b) Notwithstanding subdivision (r) of Section 17704.07,
4 members of a specified class or group of members may vote
5 separately or with all or any class or group of members on any
6 matter.

7 (c) If the proprietary interests of the members are unequal, the
8 worker cooperative company must state this in its articles.

9 17801.05. The Secretary of State shall provide on its Internet
10 Web site information and sample documents for forming a worker
11 cooperative company.

12 17801.06. The provisions of Division 1 (commencing with
13 Section 17701.01) shall apply to a worker cooperative company,
14 except where a provision is in conflict with, or inconsistent with
15 the provisions of this division.

16 SEC. 5. Section 25100 of the Corporations Code is amended
17 to read:

18 25100. The following securities are exempted from Sections
19 25110, 25120, and 25130:

20 (a) Any security (including a revenue obligation) issued or
21 guaranteed by the United States, any state, any city, county, city
22 and county, public district, public authority, public corporation,
23 public entity, or political subdivision of a state or any agency or
24 corporate or other instrumentality of any one or more of the
25 foregoing; or any certificate of deposit for any of the foregoing.

26 (b) Any security issued or guaranteed by Canada, any Canadian
27 province, any political subdivision or municipality of that province,
28 or by any other foreign government with which the United States
29 currently maintains diplomatic relations, if the security is
30 recognized as a valid obligation by the issuer or guarantor; or any
31 certificate of deposit for any of the foregoing.

32 (c) Any security issued or guaranteed by and representing an
33 interest in or a direct obligation of a national bank or a bank or
34 trust company incorporated under the laws of this state, and any
35 security issued by a bank to one or more other banks and
36 representing an interest in an asset of the issuing bank.

37 (d) Any security issued or guaranteed by a federal savings
38 association or federal savings bank or federal land bank or joint
39 land bank or national farm loan association or by any savings
40 association, as defined in subdivision (a) of Section 5102 of the

1 Financial Code, which is subject to the supervision and regulation
2 of the Commissioner of Financial Institutions of this state.

3 (e) Any security (other than an interest in all or portions of a
4 parcel or parcels of real property which are subdivided land or a
5 subdivision or in a real estate development), the issuance of which
6 is subject to authorization by the Insurance Commissioner, the
7 Public Utilities Commission, or the Real Estate Commissioner of
8 this state.

9 (f) Any security consisting of any interest in all or portions of
10 a parcel or parcels of real property which are subdivided lands or
11 a subdivision or in a real estate development; provided that the
12 exemption in this subdivision shall not be applicable to: (1) any
13 investment contract sold or offered for sale with, or as part of, that
14 interest, or (2) any person engaged in the business of selling,
15 distributing, or supplying water for irrigation purposes or domestic
16 use that is not a public utility except that the exemption is
17 applicable to any security of a mutual water company (other than
18 an investment contract as described in paragraph (1)) offered or
19 sold in connection with subdivided lands pursuant to Chapter 2
20 (commencing with Section 14310) of Part 7 of Division 3 of Title
21 1.

22 (g) Any mutual capital certificates or savings accounts, as
23 defined in the Savings Association Law, issued by a savings
24 association, as defined by subdivision (a) of Section 5102 of the
25 Financial Code, and holding a license or certificate of authority
26 then in force from the Commissioner of Financial Institutions of
27 this state.

28 (h) Any security issued or guaranteed by any federal credit
29 union, or by any credit union organized and supervised, or
30 regulated, under the Credit Union Law.

31 (i) Any security issued or guaranteed by any railroad, other
32 common carrier, public utility, or public utility holding company
33 which is (1) subject to the jurisdiction of the Interstate Commerce
34 Commission or its successor or (2) a holding company registered
35 with the Securities and Exchange Commission under the Public
36 Utility Holding Company Act of 1935 or a subsidiary of that
37 company within the meaning of that act or (3) regulated in respect
38 of the issuance or guarantee of the security by a governmental
39 authority of the United States, of any state, of Canada or of any

1 Canadian province; and the security is subject to registration with
2 or authorization of issuance by that authority.

3 (j) Any security (except evidences of indebtedness, whether
4 interest bearing or not) of an issuer (1) organized exclusively for
5 educational, benevolent, fraternal, religious, charitable, social, or
6 reformatory purposes and not for pecuniary profit, if no part of the
7 net earnings of the issuer inures to the benefit of any private
8 shareholder or individual, or (2) organized as a chamber of
9 commerce or trade or professional association. The fact that
10 amounts received from memberships or dues or both will or may
11 be used to construct or otherwise acquire facilities for use by
12 members of the nonprofit organization does not disqualify the
13 organization for this exemption. This exemption does not apply
14 to the securities of any nonprofit organization if any promoter
15 thereof expects or intends to make a profit directly or indirectly
16 from any business or activity associated with the organization or
17 operation of that nonprofit organization or from remuneration
18 received from that nonprofit organization.

19 (k) Any agreement, commonly known as a “life income
20 contract,” of an issuer (1) organized exclusively for educational,
21 benevolent, fraternal, religious, charitable, social, or reformatory
22 purposes and not for pecuniary profit and (2) which the
23 commissioner designates by rule or order, with a donor in
24 consideration of a donation of property to that issuer and providing
25 for the payment to the donor or persons designated by him or her
26 of income or specified periodic payments from the donated
27 property or other property for the life of the donor or those other
28 persons.

29 (l) Any note, draft, bill of exchange, or banker’s acceptance
30 which is freely transferable and of prime quality, arises out of a
31 current transaction or the proceeds of which have been or are to
32 be used for current transactions, and which evidences an obligation
33 to pay cash within nine months of the date of issuance, exclusive
34 of days of grace, or any renewal of that paper which is likewise
35 limited, or any guarantee of that paper or of that renewal, provided
36 that the paper is not offered to the public in amounts of less than
37 twenty-five thousand dollars (\$25,000) in the aggregate to any one
38 purchaser. In addition, the commissioner may, by rule or order,
39 exempt any issuer of any notes, drafts, bills of exchange or banker’s
40 acceptances from qualification of those securities when the

1 commissioner finds that the qualification is not necessary or
 2 appropriate in the public interest or for the protection of investors.

3 (m) Any security issued by any corporation organized and
 4 existing under the provisions of Chapter 1 (commencing with
 5 Section 54001) of Division 20 of the Food and Agricultural Code.

6 (n) Any beneficial interest in an employees' pension,
 7 profit-sharing, stock bonus or similar benefit plan which meets the
 8 requirements for qualification under Section 401 of the federal
 9 Internal Revenue Code or any statute amendatory thereof or
 10 supplementary thereto. A determination letter from the Internal
 11 Revenue Service stating that an employees' pension, profit-sharing,
 12 stock bonus or similar benefit plan meets those requirements shall
 13 be conclusive evidence that the plan is an employees' pension,
 14 profit-sharing, stock bonus or similar benefit plan within the
 15 meaning of the first sentence of this subdivision until the date the
 16 determination letter is revoked in writing by the Internal Revenue
 17 Service, regardless of whether or not the revocation is retroactive.

18 (o) Any security listed or approved for listing upon notice of
 19 issuance on a national securities exchange, if the exchange has
 20 been certified by rule or order of the commissioner and any warrant
 21 or right to purchase or subscribe to the security. The exemption
 22 afforded by this subdivision does not apply to securities listed or
 23 approved for listing upon notice of issuance on a national securities
 24 exchange, in a rollup transaction unless the rollup transaction is
 25 an eligible rollup transaction as defined in Section 25014.7.

26 That certification of any exchange shall be made by the
 27 commissioner upon the written request of the exchange if the
 28 commissioner finds that the exchange, in acting on applications
 29 for listing of common stock, substantially applies the minimum
 30 standards set forth in either subparagraph (A) or (B) of paragraph
 31 (1), and, in considering suspension or removal from listing,
 32 substantially applies each of the criteria set forth in paragraph (2).

33 (1) Listing standards:

34 (A) (i) Shareholders' equity of at least four million dollars
 35 (\$4,000,000).

36 (ii) Pretax income of at least seven hundred fifty thousand
 37 dollars (\$750,000) in the issuer's last fiscal year or in two of its
 38 last three fiscal years.

39 (iii) Minimum public distribution of 500,000 shares (exclusive
 40 of the holdings of officers, directors, controlling shareholders, and

1 other concentrated or family holdings), together with a minimum
2 of 800 public holders or minimum public distribution of 1,000,000
3 shares together with a minimum of 400 public holders. The
4 exchange may also consider the listing of a company's securities
5 if the company has a minimum of 500,000 shares publicly held, a
6 minimum of 400 shareholders and daily trading volume in the
7 issue has been approximately 2,000 shares or more for the six
8 months preceding the date of application. In evaluating the
9 suitability of an issue for listing under this trading provision, the
10 exchange shall review the nature and frequency of that activity
11 and any other factors as it may determine to be relevant in
12 ascertaining whether the issue is suitable for trading. A security
13 that trades infrequently shall not be considered for listing under
14 this paragraph even though average daily volume amounts to 2,000
15 shares per day or more.

16 Companies whose securities are concentrated in a limited
17 geographical area, or whose securities are largely held in block by
18 institutional investors, normally may not be considered eligible
19 for listing unless the public distribution appreciably exceeds
20 500,000 shares.

21 (iv) Minimum price of three dollars (\$3) per share for a
22 reasonable period of time prior to the filing of a listing application;
23 provided, however, in certain instances an exchange may favorably
24 consider listing an issue selling for less than three dollars (\$3) per
25 share after considering all pertinent factors, including market
26 conditions in general, whether historically the issue has sold above
27 three dollars (\$3) per share, the applicant's capitalization, and the
28 number of outstanding and publicly held shares of the issue.

29 (v) An aggregate market value for publicly held shares of at
30 least three million dollars (\$3,000,000).

31 (B) (i) Shareholders' equity of at least four million dollars
32 (\$4,000,000).

33 (ii) Minimum public distribution set forth in clause (iii) of
34 subparagraph (A) of paragraph (1).

35 (iii) Operating history of at least three years.

36 (iv) An aggregate market value for publicly held shares of at
37 least fifteen million dollars (\$15,000,000).

38 (2) Criteria for consideration of suspension or removal from
39 listing:

1 (i) If a company that (A) has shareholders' equity of less than
2 one million dollars (\$1,000,000) has sustained net losses in each
3 of its two most recent fiscal years, or (B) has net tangible assets
4 of less than three million dollars (\$3,000,000) and has sustained
5 net losses in three of its four most recent fiscal years.

6 (ii) If the number of shares publicly held (excluding the holdings
7 of officers, directors, controlling shareholders and other
8 concentrated or family holdings) is less than 150,000.

9 (iii) If the total number of shareholders is less than 400 or if the
10 number of shareholders of lots of 100 shares or more is less than
11 300.

12 (iv) If the aggregate market value of shares publicly held is less
13 than seven hundred fifty thousand dollars (\$750,000).

14 (v) If shares of common stock sell at a price of less than three
15 dollars (\$3) per share for a substantial period of time and the issuer
16 shall fail to effectuate a reverse stock split of the shares within a
17 reasonable period of time after being requested by the exchange
18 to take that action.

19 A national securities exchange, certified by rule or order of the
20 commissioner under this subdivision, shall file annual reports when
21 requested to do so by the commissioner. The annual reports shall
22 contain, by issuer: the variances granted to an exchange's listing
23 standards, including variances from corporate governance and
24 voting rights' standards, for any security of that issuer; the reasons
25 for the variances; a discussion of the review procedure instituted
26 by the exchange to determine the effect of the variances on
27 investors and whether the variances should be continued; and any
28 other information that the commissioner deems relevant. The
29 purpose of these reports is to assist the commissioner in
30 determining whether the quantitative and qualitative requirements
31 of this subdivision are substantially being met by the exchange in
32 general or with regard to any particular security.

33 The commissioner after appropriate notice and opportunity for
34 hearing in accordance with the provisions of the Administrative
35 Procedure Act, Chapter 5 (commencing with Section 11500) of
36 Part 1 of Division 3 of Title 2 of the Government Code, may, in
37 his or her discretion, by rule or order, decertify any exchange
38 previously certified that ceases substantially to apply the minimum
39 standards or criteria as set forth in paragraphs (1) and (2).

1 A rule or order of certification shall conclusively establish that
2 any security listed or approved for listing upon notice of issuance
3 on any exchange named in a rule or order of certification, and any
4 warrant or right to purchase or subscribe to that security, is exempt
5 under this subdivision until the adoption by the commissioner of
6 any rule or order decertifying the exchange.

7 (p) A promissory note secured by a lien on real property, which
8 is neither one of a series of notes of equal priority secured by
9 interests in the same real property nor a note in which beneficial
10 interests are sold to more than one person or entity.

11 (q) Any unincorporated interindemnity or reciprocal or
12 interinsurance contract, that qualifies under the provisions of
13 Section 1280.7 of the Insurance Code, between members of a
14 cooperative corporation, organized and operating under Part 2
15 (commencing with Section 12200) of Division 3 of Title 1, and
16 whose members consist only of physicians and surgeons licensed
17 in California, which contracts indemnify solely in respect to
18 medical malpractice claims against the members, and which do
19 not collect in advance of loss any moneys other than contributions
20 by each member to a collective reserve trust fund or for necessary
21 expenses of administration.

22 (1) Whenever it appears to the commissioner that any person
23 has engaged or is about to engage in any act or practice constituting
24 a violation of any provision of Section 1280.7 of the Insurance
25 Code, the commissioner may, in the commissioner's discretion,
26 bring an action in the name of the people of the State of California
27 in the superior court to enjoin the acts or practices or to enforce
28 compliance with Section 1280.7 of the Insurance Code. Upon a
29 proper showing a permanent or preliminary injunction, a restraining
30 order, or a writ of mandate shall be granted and a receiver or
31 conservator may be appointed for the defendant or the defendant's
32 assets.

33 (2) The commissioner may, in the commissioner's discretion,
34 (A) make public or private investigations within or outside of this
35 state as the commissioner deems necessary to determine whether
36 any person has violated or is about to violate any provision of
37 Section 1280.7 of the Insurance Code or to aid in the enforcement
38 of Section 1280.7, and (B) publish information concerning the
39 violation of Section 1280.7.

1 (3) For the purpose of any investigation or proceeding under
2 this section, the commissioner or any officer designated by the
3 commissioner may administer oaths and affirmations, subpoena
4 witnesses, compel their attendance, take evidence, and require the
5 production of any books, papers, correspondence, memoranda,
6 agreements, or other documents or records which the commissioner
7 deems relevant or material to the inquiry.

8 (4) In case of contumacy by, or refusal to obey a subpoena
9 issued to, any person, the superior court, upon application by the
10 commissioner, may issue to the person an order requiring the
11 person to appear before the commissioner, or the officer designated
12 by the commissioner, to produce documentary evidence, if so
13 ordered, or to give evidence touching the matter under investigation
14 or in question. Failure to obey the order of the court may be
15 punished by the court as a contempt.

16 (5) No person is excused from attending or testifying or from
17 producing any document or record before the commissioner or in
18 obedience to the subpoena of the commissioner or any officer
19 designated by the commissioner, or in any proceeding instituted
20 by the commissioner, on the ground that the testimony or evidence
21 (documentary or otherwise), required of the person may tend to
22 incriminate the person or subject the person to a penalty or
23 forfeiture, but no individual may be prosecuted or subjected to any
24 penalty or forfeiture for or on account of any transaction, matter,
25 or thing concerning which the person is compelled, after validly
26 claiming the privilege against self-incrimination, to testify or
27 produce evidence (documentary or otherwise), except that the
28 individual testifying is not exempt from prosecution and
29 punishment for perjury or contempt committed in testifying.

30 (6) The cost of any review, examination, audit, or investigation
31 made by the commissioner under Section 1280.7 of the Insurance
32 Code shall be paid to the commissioner by the person subject to
33 the review, examination, audit, or investigation, and the
34 commissioner may maintain an action for the recovery of these
35 costs in any court of competent jurisdiction. In determining the
36 cost, the commissioner may use the actual amount of the salary or
37 other compensation paid to the persons making the review,
38 examination, audit, or investigation plus the actual amount of
39 expenses including overhead reasonably incurred in the
40 performance of the work.

1 The recoverable cost of each review, examination, audit, or
2 investigation made by the commissioner under Section 1280.7 of
3 the Insurance Code shall not exceed twenty-five thousand dollars
4 (\$25,000), except that costs exceeding twenty-five thousand dollars
5 (\$25,000) shall be recoverable if the costs are necessary to prevent
6 a violation of any provision of Section 1280.7 of the Insurance
7 Code.

8 (r) (1) Any shares or memberships issued by any corporation
9 organized and existing pursuant to the provisions of Part 2
10 (commencing with Section 12200) of Division 3 of Title 1,
11 provided the aggregate investment of any shareholder or member
12 in shares or memberships sold pursuant to this subdivision does
13 not exceed three hundred dollars (\$300). This exemption does not
14 apply to the shares or memberships of that corporation if any
15 promoter thereof expects or intends to make a profit directly or
16 indirectly from any business or activity associated with the
17 corporation or the operation of the corporation or from
18 remuneration, other than reasonable salary, received from the
19 corporation. This exemption does not apply to nonvoting shares
20 or memberships of that corporation issued to any person who does
21 not possess, and who will not acquire in connection with the
22 issuance of nonvoting shares or memberships, voting power
23 (Section 12253) in the corporation. This exemption also does not
24 apply to shares or memberships issued by a nonprofit cooperative
25 corporation organized to facilitate the creation of an unincorporated
26 interindemnity arrangement that provides indemnification for
27 medical malpractice to its physician and surgeon members as set
28 forth in subdivision (q).

29 (2) *Notwithstanding paragraph (1), any membership issued by*
30 *a worker cooperative company organized and existing pursuant*
31 *to the provisions of Division 2 (commencing with Section 17801.01)*
32 *of Title 2.6, provided the primary motivation of the purchaser is*
33 *to use or consume the products or services of the worker*
34 *cooperative company or to otherwise patronize the worker*
35 *cooperative company and is not primarily motivated by the*
36 *prospect of a return on investment, shall be exempted from Sections*
37 *25110, 25120, and 25130.*

38 (s) Any security consisting of or representing an interest in a
39 pool of mortgage loans that meets each of the following
40 requirements:

1 (1) The pool consists of whole mortgage loans or participation
 2 interests in those loans, which loans were originated or acquired
 3 in the ordinary course of business by a national bank or federal
 4 savings association or federal savings bank having its principal
 5 office in this state, by a bank incorporated under the laws of this
 6 state or by a savings association as defined in subdivision (a) of
 7 Section 5102 of the Financial Code and which is subject to the
 8 supervision and regulation of the Commissioner of Financial
 9 Institutions, and each of which at the time of transfer to the pool
 10 is an authorized investment for the originating or acquiring
 11 institution.

12 (2) The pool of mortgage loans is held in trust by a trustee which
 13 is a financial institution specified in paragraph (1) as trustee or
 14 otherwise.

15 (3) The loans are serviced by a financial institution specified in
 16 paragraph (1).

17 (4) The security is not offered in amounts of less than
 18 twenty-five thousand dollars (\$25,000) in the aggregate to any one
 19 purchaser.

20 (5) The security is offered pursuant to a registration under the
 21 Securities Act of 1933, or pursuant to an exemption under
 22 Regulation A under that act, or in the opinion of counsel for the
 23 issuer, is offered pursuant to an exemption under Section 4(2) of
 24 that act.

25 (t) (1) Any security issued or guaranteed by and representing
 26 an interest in or a direct obligation of an industrial loan company
 27 incorporated under the laws of the state and authorized by the
 28 Commissioner of Financial Institutions to engage in industrial loan
 29 business.

30 (2) Any investment certificate in or issued by any industrial
 31 loan company that is organized under the laws of a state of the
 32 United States other than this state, that is insured by the Federal
 33 Deposit Insurance Corporation, and that maintains a branch office
 34 in this state.

35 SEC. 6. No reimbursement is required by this act pursuant to
 36 Section 6 of Article XIII B of the California Constitution because
 37 the only costs that may be incurred by a local agency or school
 38 district will be incurred because this act creates a new crime or
 39 infraction, eliminates a crime or infraction, or changes the penalty
 40 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

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